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09/831,930

9. (Twice Amended) Use of a twisted double cable comprising two wires as a network connection in a network, in which both a symmetrical, differential data transmission via the two wires (1, 2) and an energy transfer from a single terminal of a voltage source equally via the two wires (1, 2) of the network connection is realized.

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10. (Twice Amended) Use of a cable having at least two wires (1, 2) for electrically connecting network users (3, 4, 5, 6, 7) in a network, wherein the cable has a symmetrical structure and the two wires (1, 2) are twisted, the wires (1, 2) being mutually insulated to such an extent (13; 21, 22; 34; 36) that they are suitable for a symmetrical, differential data transmission, the two wires (1, 2) having the same electrical resistance and jointly having a cross-section which is suitable for energy transfer from a single terminal of a voltage source to network users (3, 4, 5, 6) equally via the two wires (1, 2).

### Remarks

#### *Status of the Claims*

Claims 1-14 are currently pending in the captioned application. Claims 12-14 have been withdrawn from present consideration. Claims 1, 9 and 10 are the independent claims.

#### *Rejections Under 35 USC § 103(a)*

1. Claims 1 and 9 were rejected under 35 USC § 103(a) as being unpatentable over *Pincadet* (US 4,621,170) in view of *Watanabe, et al.* (US 5,500,774). For the reasons set forth below, it is respectfully submitted that this rejection is improper and, therefore, should be withdrawn.

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It is established that a *prima facie* case of obviousness requires *that all of the elements* be found in the prior art. Necessarily, if *one element of the prior art is missing from the applied art, a prima facie case of obviousness cannot be established.* Moreover, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is a teaching, suggestion or motivation to do so found in the references relied upon or in the knowledge generally available to one having ordinary skill in the art. However, hindsight is never an appropriate motivation for combining references and/or knowledge generally available to one having ordinary skill in the art. Accordingly, relying upon hindsight knowledge of an applicant's disclosure when the applied art does not teach nor suggest such knowledge results in the use of the invention as a template for its reconstruction. This is wholly inappropriate in the determination of patentability.

Discussing the merits of claim 1 initially, a specific limitation of this claim is:

“...the two wires (1,2) have the same electrical resistance and jointly have a cross-section which is suitable for *energy transfer from a single terminal of a voltage source to network users (3,4,5,6) via both wires, wherein energy is transferred from the single terminal of the voltage source equally through the two wires...*”

As such the energy transfer is from a single terminal of the voltage source equally between the two wires. This is neither taught nor suggested in the applied art as the Office Action asserts.

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The Office Action asserts that the reference to *Pincadet* teaches a voltage source "...with equal voltage source through two wires and data is transmitted through each wire (see figures 2 and 3)." (Please refer to Page 3 of the Office Action). First of all, it is respectfully asserted that this quoted portion of the Office Action is not the same as the limitation set forth in claim 1 above. This is readily apparent from a comparison of the quoted portion of claim 1, and the quoted portion of the Office Action.

Unlike the captioned portion of claim 1, the reference to *Pincadet* teaches the use of twisted pair telephone cable in which a positive pole of a voltage source is connected to one of the wires and a negative pole is connected to the other. As such, the *energy from each pole of the voltage source* is transferred to *one of the wires*. The reference to *Pincadet* specifically lacks at least the teaching that *energy is transferred* from the single terminal of the voltage source *equally through the two wires* as is specifically claimed.

The Office Action relies on the reference to *Watanabe, et al.* for the teaching of a single terminal of a voltage source. It is respectfully asserted that the motivation for combining these references is wholly lacking. To this end, it is well established that the desirability of the modification must be suggested by the prior art. The references to *Pincadet* and *Watanabe, et al.* fail to suggest any motivation for, or desirability of, the changes espoused by the Office Action.

The reference to *Pincadet* is drawn to the transmission of information and via twisted pair lines; *and* the supplying of a direct positive voltage via one of the wires (31), and of a direct negative voltage via the other wire (33). There is no

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suggestion of the desirability of incorporating a single terminal of a voltage source. In fact, it is submitted that this would result in desired functions of *Pincadet* being foregone.

The reference to *Watanabe, et al.*, is drawn to a circuit for setting the write current of a magnetic disc apparatus, and, *as such is not even related* to the technology to which the present invention relates. It is respectfully asserted that the incorporation of *Watanabe, et al.* to arrive at the claimed invention is an impermissible use of hindsight reconstruction whereby isolated disclosures are picked and chosen from to deprecate the claimed invention. This is wholly inappropriate in the determination of patentability.

Accordingly, for at least the reasons set for the above, claim 1 and the claims that depend therefrom are believed to be allowable over the applied art. Allowance is earnestly solicited.

Claim 9 includes a limitation that is similar the limitation in claim 1 discussed above. To wit, claim 9 as amended specifically recites:  
"*... an equal energy transfer from a single terminal of a voltage source via the two wires...*"

For reasons consistent with the discussion surround the rejection of claim 1 above, claim 9 is believed to define over the applied art. Allowance of this claim and the claims that depend therefrom is earnestly solicited.

2. Claim 10 was rejected under 35 USC § 103(a) as being unpatentable over *Pincadet* in view of *Raw, et al.* (US 3,795,760).

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Claim 10, as amended, includes the limitation:

*"...the two wires (1, 2) having the same electrical resistance and jointly having a cross-section which is suitable for energy transfer from a single terminal of a voltage source to network users (3, 4, 5, 6) equally via the two wires (1, 2)."*

As described in detail above in connection with the rejection of claim 1, the reference to *Pincadet* specifically lacks at least the teaching of *energy transfer from a single terminal of a voltage source to network users equally* via the two wires as recited in claim 10. As such, because the applied art lacks at least a teaching of this claimed element, a rejection under 35 USC § 103(a) cannot be established based thereon. It is respectfully submitted that claim 10 defines over the applied art; allowance of this claim is earnestly solicited.

### Conclusion

In view of the foregoing, withdrawal of all objections and rejections is respectfully requested. Allowance of all pending claims is earnestly solicited.

Except as otherwise stated in the previous Remarks, applicants note that each of the amendments have been made to place the claims in better form for U.S. practice or to clarify the meaning of the claims; not to distinguish the claims from prior art references, otherwise narrow the scope or comply with other statutory requirements. Moreover, Applicants reserve all rights they may have under the Doctrine of Equivalents.

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In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact William S. Francos, Esq. (Reg. No. 38,456) at (610) 375-3513 to discuss these matters.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted on behalf of:

Philips Electronics North America  
Corporation



William S. Francos, Esq.

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**Marked Version Showing Changes to the Amended Claims**

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